

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ULRIKE M. WEST,

Plaintiff,

v.

No.: 6:09-cv-00631-JB/CG

NEW MEXICO TAXATION AND REVENUE
DEPARTMENT and PHILLIP SALAZAR,

Defendants.

MOTION FOR CONTINUANCE

Defendants New Mexico Department of Taxation and Revenue and Phillip Salazar("Defendants") move the Court for its order continuing the trial setting of October 18, 2010 and the pre-trial settings related to it and ask the Court to schedule this trial for a firm trial setting. As grounds for this motion, Defendants state:

1. This matter is set for a 3-day bench trial on the Federal Court's trailing docket beginning at 9 a.m. on October 18, 2010.
2. Currently, there are cross motions for summary judgment pending before the Court which, due to extensions of time completion of the briefing, were not set for oral argument the Court until August 30, 2010.
3. Defendants will incur fees and costs related to full trial preparation without the benefit of a determination on the cross motions for summary judgment which may limit or dispose of certain issues and facts to be proven at trial, thereby requiring defendants to prepare on all issues when to do so may not be necessary.

4. Because this a bench trial case, the parties will both benefit by receiving a firm trial setting for the trial of this matter.

5. Defense counsel conferred with the Court's Courtroom Deputy and determined that there are several openings in the Court's calendar for a 3-day bench trial setting of this matter in November and December, 2010.

6. Counsel for Defendants has conferred with Plaintiff's counsel and determined that this motion is opposed.

WHEREFORE, Defendants move this Court for its order vacating the October 18, 201 trial setting and resetting this matter for a firm trial setting.

Respectfully submitted,

MILLER STRATVERT P.A.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed electronically through the CM/ECF system and was also mailed to the following parties or counsel of record this 4th day of October, 2010, via United States first class mail, postage prepaid:

Paul M. Gayle-Smith, Esq.
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/s/ Paula G. Maynes
Paula G. Maynes

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